

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-30, all of which have been rejected. By this Amendment, claims 1-30 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-7, 9, 11-17, 19, 21-27, and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,644,714, issued to Kikinis (hereinafter, Kikinis). Claims 8, 10, 18, 20, 28, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikinis in view of U.S. Patent No. 5,913,032, issued to Schwartz, et al. (hereinafter, Schwartz). The Applicant respectfully traverses these rejections at least based on the following remarks.

#### **I. Claim Objections**

The Office Action states the following:

Claim 2 is objected to because of the following informalities: Line(s) 2, should read, "... comprising receiving said requested **of** at least a portion of said one or more of said newly available media, data and service by..." Appropriate correction is required.

See the Office Action at page 2. The Applicant respectfully disagrees and points out that claim 1 recites "requesting at least a portion of said one or more of said

newly available media...” Therefore, when this claim limitation appears in Applicant’s claim 2, the correct format is “said requested at least a portion of said one or more of said newly available media...” In other words, there is no need for “of” to be placed after “requested.” The Applicant submits that no correction to claim 2 is necessary.

## **REJECTIONS UNDER 35 U.S.C. § 102**

### **II. Kikinis Does Not Anticipate Claims 1-7, 9, 11-17, 19, 21-27, and 29**

The Applicant first turns to the rejection of claims 1-7, 9, 11-17, 19, 21-27, and 29 under 35 U.S.C. 102(b) as being anticipated by Kikinis. With regard to the anticipation rejections under 102, MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

**A. Rejection of Independent Claims 1, 11, and 21**

With regard to the rejection of independent claim 1 under 102(b), the Applicant submits that Kikinis does not disclose or suggest at least the limitation of “comparing by said at least one media processing system, said one or more of said newly available media, data and service with data in **a media profile associated with said at least one media processing system**,” as recited by the Applicant in independent claim 1 (emphasis added).

The Office Action states the following:

In regards to claims 1, 11, and 21 Kinkinis discloses, a method, a machine readable storage having stored thereon, a computer program having at least one code section for communicating information in a distributed media network, the at least one code section being executable by a machine for communication of information in a distributed media network, a system for communication of information in a distributed media network, and a method comprising:

- a. detecting availability by at least one media processing system (Fig. 1A. #1) in the distributed media network (Fig. 1A), of one or more of newly available media, data and service within the distributed media network (Col. 5 line(s) 16-20, teach **the file server's (media processing system)** control routine recognizing (detecting) that a new clipping has been loaded);
- b. comparing by said at least one media processing system, said one or more of said newly available media, data and service with data in a media profile associated with said at least one media processing system (Fig. 2 #42 and Col. 5 line(s) 34-38, teach the file server comparing subscribers profiles to the newly loaded clippings, for identifying which subscriber has interest.); and
- c. requesting at least a portion of said one or more of said newly available media, data and service from the distributed media

network based on said comparison by said at least one media processing system (Fig. 2 #52 and Col. 5 line(s) 55-57, teach the subscriber requesting a download of the new clipping, after receiving a notification based on their profile that it is available.).

See the Final Office Action at pages 3-4. The Examiner relies on Figures 1A and 2 of Kikinis, which illustrate a Video Jukebox world-wide architecture. Referring to Figure 1A, **Kikinis discloses that the individual clients 17-39 specify the topics of their particular interests. More specifically, paying clients of the video service, at the time of subscription, specify the topics of their particular interests.** See Kikinis, col. 4, lines 10-13. **The Applicant points out that this is the only relevant disclosure by Kikinis of a “profile”. Obviously, this “profile” relates to each of the subscribing clients 17-39.** In addition, since the file servers send a message to the clients appropriate to their subscription and the interests they have indicated at the time of subscription to the service, the “profile” of each of the clients 17-39 is maintained and stored by the file server corresponding to the particular client.

As clearly seen from the above Final Office Action citation, **the Examiner has equated Kikinis’ file servers 1-7 to Applicant’s “media processing system.”** However, as clarified above, **Kikinis’ “profile” relates to the subscribing clients 17-39, and the “profile” does not relate to the file servers 1-7 (equated to “media processing systems”).** Therefore, Kikinis does not **disclose** “comparing by said at least one media processing system, said one or more of said newly available media, data and service with data in a media profile

associated with said at least one media processing system,” as recited by the Applicant in independent claim 1.

The Applicant points out that in the previous non-final Office Action (dated August 27, 2007), the Examiner equated Applicant’s “media processing system” to the clients 17-39. The Applicant overcame this argument in the November 5, 2007 response, and illustrated why Applicant’s claims are not anticipated by Kikinis. The Examiner changed her mind and has now equated Applicant’s “media processing system” to the file servers 1-7. The Applicant points out that this argument has also been overcome at least for the above reasons.

Accordingly, independent claim 1 is not anticipated by Kikinis and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-7, 9, 12-17, 19, 22-27, and 29**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Kikinis has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-7, 9, 12-17, 19, 22-27, and 29 depend from independent

claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-7, 9, 11-17, 19, 21-27, and 29.

### **REJECTIONS UNDER 35 U.S.C. § 103**

#### **III. Rejection of Dependent Claims 8, 10, 18, 20, 28, and 30**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Kikinis has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited reference (Schwartz) does not overcome the deficiencies of Kikinis, claims 8, 10, 18, 20, 28, and 30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8, 10, 18, 20, 28, and 30.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 24-MAR-2008

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